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November 25, 1993

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FCC - MAIL ROOM

The Honorable Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Limitations on Commercial Time on Television Broadcast Stations, MM Docket  
No. 93-254

Dear Ms. Searcy:

Reimposing limitations on the amount of commercial matter on broadcast television stations will prove counterproductive in our opinion.

As a director of a company which specializes in direct response television marketing, and as a featured speaker on many of the most popular television talk shows, a published author ("Inside Infomercials", the industry guide), a frequently quoted industry spokesperson in all major national newspaper & business journals, and as a lecturer on television marketing at conventions and at major universities, I believe my qualifications give credence to my position on this matter.

Since the beginning of television and especially since the 1984 deregulation of commercial time on television, the inclusion of commercial matter into more conventional television programming has evolved into the norm. In fact, it has become the approved and accepted standard by the television audience.

Now your agency is considering changing all that, returning to yesteryear. Things have changed since 1984. Entertainment programming and commercials are no longer as clearly defined. This was already happening in the years leading up to 1984. 1984 allowed the industry to seek its own balance.

In order to limit commercial matter in 1994, one must first define and separate commercial matter from entertainment. Herein lies the foundation of the FCC's flaw. More and more programs which are entertainment based often have an interwoven commercial message and purpose. That means the FCC will have to review every program for its tie to a commercial message and to rate that program accordingly. Better hire a bigger staff.

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Here are some of the 'entertainment' programs that are on the air today which are structurally commercial & entertainment programs:

**"Oprah Winfrey Interviews Michael Jackson Live"** This two hour live television program purported to be an "insiders" interview with Michael Jackson by Ms. Winfrey was a commercial in its entirety. The purpose of the program was to help launch Mr. Jackson's new record album and to help renew his career. The last 30 minutes of the program focused only on the new album and where and how to get it. Interestingly, the producers of the program and the network were financially linked to the album's production company.

**"The Making of the 'Unforgiven' with Clint Eastwood"** This television program was created and sponsored by the film's ("The Unforgiven") producers in its marketing attempt to encourage people to buy tickets at the movie theater. According to Hollywood reporters, this commercial - entertainment program was key to the film's success on Oscar night.

**"The Civil War" by Ken Burns, PBS** Ken Burns turned a 7+ hour documentary on The Civil War into a commercial. Where one started and the other began would require a Warren Commission investigation. This is true: over \$50,000,000 from sales of tapes, books and "souvenir" was generated for Mr. Burns and his production company. The only commercials appearing in the PBS program were Mr. Burn's.

**"Pacific Magic"** A travelogue on exciting ports-of-call in the Pacific. Interestingly all the featured ports are served by Air New Zealand, the programs only travel sponsor. Viewers are invited to call an 800 number for more information on travel to these destinations at highly discounted rates through Air New Zealand.

The list goes on and on. **"Big Jake", "The Gadget Guru", "The Rush Limbaugh Show", "The Making of Dennis The Menace"**, and more, all have producer responsible commercial messages included in them, programming/commercial messages that reward the programs' owners. Did you know that people pay large sums to be featured on **"The Tonight Show", "Arsenio Hall", "David Letterman"**, yes, in some cases even on **"CNN"**? Is it disclosed to the public that the selection of guests featured on a program may be commercially induced rather than entertainment or topically selected? No! That means that these programs are commercially based as well.

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Television entertains, it educates, it motivates, and it drives retail sales like nothing else. Consumers know this and accept it. In addition, they regulate it with their remote control switches and their wide selection of non-television entertainment options.

They know that television programming is no longer separated from commercial messages. To help the consumer further, the FTC has taken steps to help protect the consumer, to make the consumer aware he is watching commercial programming. The National Infomercial Marketing Association (NIMA) has instituted, implemented and enforced rules for the infomercial industry as well. And, NIMA's rules are far more inclusive than the FTC's.

What are the positive consequences of the existing FCC deregulation policy?

- 1) Retail sales are up.
- 2) Jobs are up.
- 3) A new industry has been born.
- 4) Consumers are better educated.
- 5) Product performance is much better since direct response television advertising guarantees refunds to dissatisfied customers.
- 6) The sale of U.S. products into foreign markets is exploding.

What are the negative consequences of the existing FCC policy?

- 1) There's are too many commercials on TV. (So what's new?)
- 2) Programs with entertainment base such as repeat & syndicated programs from the 50's, 60's & 70's and a few quiz & talk shows have been canceled because their ratings were lower than many infomercials.
- 3) Increased cost of advertising and, thereby, the cost of consumer products.
- 4) Failure of the FCC to protect the viewing public from overdosing on crass television commercial advertising.
- 5) Failure of the FCC to show why it needs to increase the size of its bureaucracy.
- 6) The cable advertising industry will receive a windfall.

Nothing happens in America until something is sold. The easier and cheaper it is to advertise, the more an economy is driven. Anything that inhibits or restricts honest advertising should not be allowed.

The Cold War is over. We won. Who are the heros and heroines? The men and women who got out there and sold their products and services. We won the Cold

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War because we simply out sold our competitors. And, we will continue winning the international economic battles as long as we give our fighting teams the tools they need to win.

Being honest, being fair, being consumer responsible is a challenge we in business face everyday. When we step out of line, we should get slapped by the appropriate regulatory agencies and by our customers. By far and away, we are responsible business people who only need opportunity, a chance to show what we can do. If you can't help us, please don't hurt us.

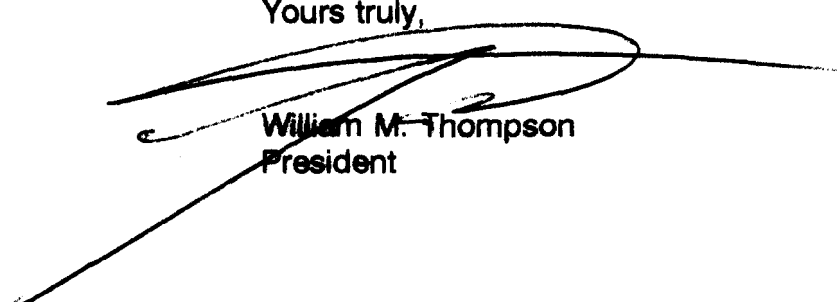
Are Home Shopping, QVC, Infomercials, and commercially oriented programming part of free speech? I don't know. I'm not a lawyer.

Will limiting the ability of television advertisers to sell their products and services benefit the population at large? Here I do know. The impact of such a ruling would be difficult and expensive to enforce today (this is bad for those of us outside the Beltway who have to pay taxes and good for those inside who are interested in bigger government and bigger budgets) and would hurt everyone.

Please enter my vote on behalf of the people of America who depend on innovation, integrity, and inspiration to move ahead.

Please do not limit commercial time on television broadcast stations.

Yours truly,



William M. Thompson  
President

WMT/bb